

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

~~2001-341-T~~

DOCKET NO. ~~2000-371-T~~ - ORDER NO. 2001-1105

DECEMBER 10, 2001

IN RE: Application of Reliable Services Group, Inc.)
d/b/a Two Men and A Truck, 3430 Buffalo) ORDER AMENDING ✓
Ave., Suite A, Charleston, SC 29418-5958 to) SCOPE OF AUTHORITY
Amend the Scope of Authority of Class E) ON CLASS E
Certificate of Public Convenience and) CERTIFICATE NO. 9684
Necessity No. 9684.)

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Reliable Services Group, Inc. d/b/a Two Men and A Truck (hereafter referred to as "Reliable Services" or the "Applicant"). By its Application, Reliable Services requests to amend its Class E Certificate of Public Convenience and Necessity No. 9684 by expanding the scope of authority contained in Certificate of PC&N No. 9684.

Reliable Services' Certificate of PC&N currently provides for a scope of authority as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):
Between points and places Beaufort, Berkeley, Charleston,
Dorchester, Georgetown, and Horry Counties, South
Carolina and from points and places in Beaufort, Berkeley,
Charleston, Dorchester, Georgetown, and Horry Counties,
SC to points and places in South Carolina.

Reliable Services' Application requests amending Certificate of PC&N No. 9684 to add Colleton, Florence, Jasper, Marion, and Williamsburg Counties, South Carolina so that after amendment Reliable Services' Certificate of PC&N would read as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):

Between points and places Beaufort, Berkeley, Charleston, Colleton, Dorchester, Florence, Georgetown, Horry, Jasper, Marion, and Williamsburg Counties, South Carolina and from points and places in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Florence, Georgetown, Horry, Jasper, Marion, and Williamsburg Counties to points and places in South Carolina.

The Commission's Executive Director instructed Reliable Services to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing provided details of the Application and of the requested authority and provided information for public participation in the proceedings concerning the Application. As required by the Commission's Executive Director, Reliable Services provided proof of publication of the Notice of Filing. The Commission did not receive any Petitions to Intervene in the instant docket, but one letter of protest, from Dale J. Cook Moving and Storage, Inc., was filed.

A hearing on Reliable Services' Application was held on October 24, 2001, at 2:30 P.M. in the hearing room at the offices of the Commission. The Honorable William T. Saunders, Chairman, presided at the hearing. John J. Pringle, Jr., Esquire represented Reliable Services. Florence P. Belser, Deputy General Counsel, represented the Commission Staff. No Protestants appeared at the hearing. Bruce Swanson and Craig

Lake testified in support of Reliable Services' Application to amend and expand the scope of authority of Certificate of PC&N No. 9684.

APPLICABLE LAW

1. S.C. Code Ann. § 58-23-20 (Supp. 2000) provides in part:

No corporation or person, his lessees, trustees, or receivers may operate a motor vehicle for the transportation of persons or property for compensation on an improved public highway in this State except in accordance with the provisions of this chapter, except where the use of a motor vehicle is incidental only to the operation, and any such operation is subject to control, supervision, and regulation by the commission in the manner provided by this chapter.

2. S.C. Code Ann. § 58-23-40 (1976) provides:

No motor vehicle carrier shall hereafter operate for the transportation of persons or property for compensation on any improved public highway in this State without first having obtained from the Commission, under the provisions of Article 3 of this chapter, a certificate and paid the license fee required by Article 5.

3. S.C. Code Ann. § 58-23-590(A) (Supp. 2000) provides:

The commission shall promulgate regulations necessary to control entry and certification standards, set rates and charges, and establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.

4. S.C. Code Ann. § 58-23-590(C) (Supp. 2000) provides:

The commission shall issue a common carrier certificate or contract carrier permit of public convenience and necessity if the applicant proves to the Commission that:

- (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission's regulation; and

(2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The commission shall adopt regulations that provide criteria for establishing that the applicant is fit, willing, and able, and criteria for establishing that the applicant must meet the requirements of public convenience and necessity. The determination that the proposed service is required by the public convenience and necessity must be made by the commission on a case by case basis.

5. Following enactment of S.C. Code Ann. § 58-23-590, the Commission proposed amendments and changes to the Commission's regulations governing Motor Carriers. The amended regulations became effective in June 1998.

6. 26 S.C. Regs. 103-102(1) (Supp. 2000) defines "Certificate of PC&N" as

the certificate of public convenience and necessity authorized to be issued under provisions of Chapter 23 of Title 58 of the Code of Laws of South Carolina, 1976. Certificates of PC&N shall be required of all for-hire passenger carriers, household goods carriers (except those operating exclusively within the limits of any municipality), and hazardous waste for disposal carriers. Holders of Certificates of PC&N shall be considered regulated carriers.

7. 26 S.C. Regs. 103-102(14) (Supp. 2000) defines "Common Carrier by Motor Vehicle" as "any person¹ which holds itself out to the general public to engage in the transportation by motor vehicle in intrastate commerce of persons or property for compensation, whether over regular or irregular routes, except as exempted in Section 58-23-50 and Section 58-23-70 of Code of Laws of South Carolina, 1976."

¹ 26 S.C. Code Regs. 103-102(15) defines "person" as "any individual, firm, partnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof."

8. A “Class E Motor Carrier” is defined in 26 S.C. Regs. 103-114 (Supp. 2000) as “a common carrier of property (household goods or hazardous waste for disposal) by motor vehicle including a motor vehicle containing goods packed by a packing service. A Class E motor carrier must obtain either a Certificate of PC&N or FWA from the Commission.”

9. 26 S.C. Code Regs. 103-133 (Supp. 2000) is entitled “Proof Required to Justify Approving an Application” and provides in subsection (1) as follows:

(1) PC&N (Household Goods or Hazardous Waste for Disposal). An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of household goods or hazardous waste for disposal by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to be appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service. The public convenience and necessity criterion must be shown by the use of shipper witnesses. If the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application. The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

- a. FIT. The applicant must demonstrate or the Commission determine that the applicant’s safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.P.D.P.S safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety operations in South Carolina, and agree to operate in compliance with these statutes and regulations.
- b. ABLE. The applicant should demonstrate that he has either purchased or leased on a long-term basis

necessary equipment to provide the service for which he is applying. Thirty days or more shall constitute a long-term basis. The applicant must undergo an inspection of all vehicles and facilities to be used to provide the proposed service. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.

- c. WILLING. Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

10. 26 S.C. Code Regs. 103-134 (Supp. 2000) is entitled "When Hearing May Be Held" and provides in relevant part that "[w]hen an application for a Certificate of PC&N is submitted and there is no opposition, the Commission may hold a hearing if it deems necessary for the purpose as it shall determine, including the issue of fitness, willingness, or ability of the applicant to appropriately perform the proposed service, or the issue of whether public convenience and necessity are already being served."

11. By Order No. 1999-654, dated September 15, 1999 (Docket No. 1999-376-T), this Commission found compliance with the shipper witness provision to be problematic for small applicants seeking a very limited scope of authority. The Commission held that a waiver of the shipper witness requirement in 26 S.C. Code Regs. 103-133(1) was in order for applicants who propose to transport household goods for hire between points and places in three or fewer counties.² The Commission noted that Order No. 1999-654 did not relieve an applicant from establishing that the public convenience

² By Order No. 2000-24, dated January 5, 2000 (Docket No. 1999-376-T), the Commission clarified its holding in Order No. 1999-654 to apply only to those applications seeking authority to transport household goods in three or fewer contiguous counties.

and necessity require the services sought in the application but merely allowed an applicant seeking authority in three or fewer counties to make its showing that public convenience and necessity require the proposed services by some means other than the use of shipper witnesses.

EVIDENCE OF RECORD

Bruce Swanson testified in support of the Application. Mr. Swanson is the president and owner of Reliable Services. Mr. Swanson stated that Reliable Services received its initial Certificate of PC&N in March 1998. At this time, Reliable Services is seeking to add Colleton, Florence, Jasper, Marion, and Williamsburg Counties, South Carolina to the scope of authority that Reliable Services currently holds.

According to Mr. Swanson, Reliable Services began its operations in the Charleston area. In January 1999, Reliable Services opened a terminal in Myrtle Beach, South Carolina, and in November 2000, Reliable Services opened a facility in Savannah, Georgia. Mr. Swanson stated that Reliable Services has grown from one truck and three employees in 1998 to 20 trucks and sixty-five employees today. Further, Reliable Services has interstate authority in Florida, Georgia, North Carolina, and South Carolina and holds intrastate authority in the State of Georgia. According to Mr. Swanson, sales for Reliable Services for the year 2001 will be over two million dollars.

With regard to the need for moving services in the areas into which Reliable Services seeks to expand, Mr. Swanson stated that he is seeking the additional authority to serve areas from which Reliable Services receives calls to serve. Mr. Swanson stated that Walterboro, South Carolina is located in Colleton County and that over the past three

years, Reliable Services has received numerous calls from the Walterboro area. According to Mr. Swanson, Walterboro is approximately thirty-five minutes from the Charleston office and that Reliable Services could easily serve the Walterboro area. Mr. Swanson also stated that the Myrtle Beach office receives calls from Florence and Marion Counties and that Reliable Services has been unable to serve those counties. Additionally, Reliable Services would serve Jasper County from the Savannah, Georgia office. The requested expansion of authority would allow Reliable Services to provide service to the area of South Carolina east of Interstate 95 in South Carolina.

Mr. Swanson also testified that Reliable Services, in its operations in South Carolina, has complied with all applicable rules and regulations of this Commission and statutes regarding the movement of household goods in South Carolina. Also, Mr. Swanson stated that Reliable Services is in compliance with the applicable insurance requirements of the Commission and that Reliable Services has no outstanding judgments pending against it.

Craig Lake of Alternative Staffing, a permanent and temporary staffing agency, also testified to the need for the expanded scope of authority. Mr. Lake testified that his business places employees predominately in the North Charleston, Summerville, and Orangeburg areas but to some extent places employees throughout the State of South Carolina. Mr. Lake stated that his company has experienced growth with the exception of the last two quarters.

Mr. Lake stated that he is familiar with the household goods industry in South Carolina as the candidates which his business places are in need of moving services.

According to Mr. Lake, the majority of the candidates for jobs are moving into the lowcountry area of South Carolina, and most of those candidates moving are assisted by either Mr. Lake or the company doing the hiring. With regard to the need for moving services, Mr. Lake testified that he has had candidates moving from the areas to which Reliable Services seeks to expand its business. Mr. Lake also opined that the market could support another mover operating in the counties where Reliable Services seeks to expand its operations.

FINDINGS OF FACT

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact:

1. The Applicant, Reliable Services, desires to amend its scope of authority to provide moving services of household goods to include points and places in Colleton, Florence, Jasper, Marion, and Williamsburg Counties, South Carolina. This finding of fact is supported by the testimony of Mr. Swanson and the submission of the Application requesting to amend Class E Certificate of Public Convenience and Necessity No. 9684.

2. The Applicant, Reliable Services, is fit, willing, and able to provide and properly perform the services which it seeks to provide. This finding of fact is based upon the testimony of Mr. Swanson and Docket No. 97-325-T, which is the docket under which Reliable Services received its original authority, and in particular Order No. 98-164, dated March 3, 1998, in Docket No. 97-325-T.³ “Fitness” was demonstrated by Mr. Swanson testifying (1) that Reliable Services is aware of the requirement of a safety

³ Pursuant to 26 S.C. Code Regs. 103-871 (1976), counsel for Reliable Services requested that the Commission consider the file and orders contained in Docket No. 97-325-T, which is the docket containing Reliable Services’ original application from which Certificate of PC&N No. 9684 was issued.

rating, (2) that there are no outstanding judgments pending against Reliable Services, and (3) that Reliable Services will operate in compliance with all statutes and regulations pertaining to for-hire motor carrier operations. “Able” was demonstrated by Mr. Swanson testifying that Reliable Services is currently providing intrastate moving services in its authorized service area with its present equipment, consisting of approximately twenty trucks, and sixty-five employees. Further, Mr. Swanson testified that Reliable Services is in compliance with the Commission’s insurance requirements. “Willingness” was demonstrated by the filing of the Application and the testimony of Mr. Swanson indicating Reliable Services’ desire to undertake the additional service area.

3. The services proposed by Reliable Services are required by the public convenience and necessity. This finding of fact is based upon the testimony of Mr. Swanson and Mr. Lake. Mr. Swanson provided testimony regarding numerous calls to serve the additional areas sought by the proposed amendment to the scope of authority. Mr. Lake offered testimony that a need exists for additional moving services in the additional counties which Reliable Services seeks to serve.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and the applicable law, the Commission concludes as follows:

1. The Commission concludes that Reliable Services has demonstrated that it meets the requirements of fit, willing, and able as set forth in 26 S.C. Code Reg. 103-133 (Supp.2000).

2. The Commission concludes that Reliable Services has sufficiently demonstrated through its presentation that the public convenience and necessity in the area in which Reliable Services proposes to serve requires the services proposed by the Application.

3. Based on the conclusions above, that Reliable Services has demonstrated that it meets the requirements of fit, willing, and able and that it has demonstrated that the public convenience and necessity require the services it proposes, the Commission concludes that Class E Certificate of Public Convenience and Necessity No. 9684 should be amended to include authority to provide for the movement of household goods between points and places in Colleton, Florence, Jasper, Marion, and Williamsburg Counties, South Carolina.

IT IS THEREFORE ORDERED THAT:

1. The Applicant, Reliable Services Group, Inc. d/b/a Two Men and A Truck, should be granted an amended Class E Certificate of Public Convenience and Necessity authorizing Reliable Services Group, Inc. d/b/a Two Men & a Truck to provide transportation services by motor vehicle as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):
Between points and places Beaufort, Berkeley, Charleston, Colleton, Dorchester, Florence, Georgetown, Horry, Jasper, Marion, and Williamsburg Counties, South Carolina and from points and places in Beaufort, Berkeley, Colleton, Charleston, Dorchester, Florence, Georgetown, Horry, Jasper, Marion, and Williamsburg Counties, South Carolina to points and places in South Carolina.

2. Reliable Services Group, Inc. d/b/a Two Men and A Truck shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et

seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended, and R.38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, an amended Certificate of PC&N shall be issued to Reliable Services Group, Inc. d/b/a Two Men and A Truck authorizing the motor carrier services granted herein.

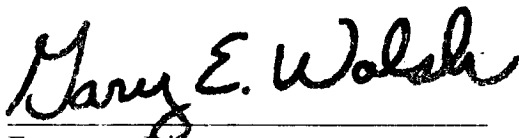
4. Prior to compliance with the above referenced requirements and receipt of a Certificate, the motor carrier services authorized herein may not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director
(SEAL)